



AGENDA ITEM NUMBER _____

Bernalillo County Board of County Commissioners

Meeting Date: January 25, 2005

Department: Zoning, Building, Planning & Environmental Health **Staff Contact:** Brennon Williams, Zoning Administrator

TITLE: APPEAL of the Board of Adjustment's denial of a variance of 5 feet to the required side yard setback distance (CO-50001/BA-40038/ZA-30113)

BOARD OF ADJUSTMENT RECOMMENDATION:

Denial

SUMMARY:

On December 1, 2004, the Board of Adjustment (BA) voted 7-0 to deny the appeal of a variance of 5 feet to the required side yard setback distance for an existing, unpermitted single-family dwelling unit. The subject property is located at 5657 Douglas Rd. SW, zoned A-1, and contains approximately .999 acres in area. The BA decision was based on two Findings.

The BA's decision came after the matter was previously continued from the October 6, 2004, hearing in order to allow the property owner to make application for a lot line adjustment for the subject site. In doing so, the need for the requested variance would no longer be necessary.

On November 24, 2004, staff received a request from the agent requesting an additional 30-day continuance in the matter. However, no one was in attendance at the December hearing to update the Board on the status of the proposal, and the requested variance was ultimately denied. The BA determined that the request did not meet the criteria for approval, and further, that any additional applications relating to adjustments of the lot line were unrelated to the appeal.

The Comprehensive Zoning Ordinance of Bernalillo County authorizes the granting of a variance to the extent necessary to permit an owner reasonable use of their land in a specified instance where there are peculiar, exceptional, and unusual circumstances in connection with their property. Additionally, the ordinance clarifies that the aforementioned circumstances should not be conditions typically found within the general locality or neighborhood of the subject site.

In his testimony and written explanation to the Board of Adjustment, as well as information presented for this appeal, the agent agrees that the request cannot meet the criteria for approval (pp. 34 and 7 respectively).

ATTACHMENTS:

1. Appeal materials
2. Board of Adjustment Notice of Decision (December 3, 2004)
3. Agent's request for continuance (November 24, 2004)
4. Board of Adjustment Packet (December 1, 2004, hearing)

STAFF ANALYSIS SUMMARY:

Zoning/Building/Planning/Environmental Health:
Staff recommends denial of the appeal